MT LEGISLATIVE HISTORY

Chapter 17 1979

Bill (H) 88 S _____ Original bill & hist. ✓ C

H. Committee on Judiciary

Hearing Date(s) Jan 15 ✓C

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_____ ___C

Date Out _____ ___C

S. Committee on Judiciary

Hearing Date(s) Jan 26 ✓C

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_____ ___C

Jan 26 ✓C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

CHAPTER NO. 17

HOUSE BILL NO. 88

INTRODUCED BY WALDRON

IN THE HOUSE

January 9, 1979	Introduced and referred to Committee on Judiciary.
January 15, 1979	Committee recommend bill do pass as amended. Report adopted.
January 16, 1979	Printed and placed on members' desks.
January 17, 1979	Second Reading, do pass.
January 18, 1979	Considered correctly engrossed.
January 19, 1979	Third Reading, passed. Transmitted to Second House.

IN THE SENATE

January 20, 1979	Introduced and referred to Committee on Judiciary.
January 27, 1979	Committee recommend bill be concurred in. Report adopted.
January 30, 1979	Second Reading, concurred in.
February 1, 1979	Third Reading, concurred in.

IN THE HOUSE

February 2, 1979	Returned from second house. Concurred in. Sent to enrolling.
	Reported correctly enrolled.

INTRODUCED BY Hoyle BILL NO. 88
Walker

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR GRANDPARENT VISITATION RIGHTS WITH MINOR GRANDCHILDREN UNDER CERTAIN CIRCUMSTANCES WHEN THE VISITATION RIGHTS ARE IN THE BEST INTEREST OF THE CHILD; AMENDING SECTION 40-4-217, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Application of Montana Rules of Civil Procedure. (1) Except as otherwise provided, the Montana Rules of Civil Procedure apply to all proceedings under [sections 1 and 2].

(2) A proceeding for grandparent visitation under [sections 1 and 2] shall be entitled, "In re the visitation of ....."

(3) The initial pleading in all proceedings under [sections 1 and 2] shall be denominated a petition. A responsive pleading shall be denominated a response. Other pleadings shall be denominated as provided in the Montana Rules of Civil Procedure.

NEW SECTION. Section 2. Grandparent visitation rights. (1) If the father or mother of an unmarried minor child is deceased, the district court may grant to the parents of the deceased person reasonable visitation rights

LC 0186/01

with the minor child.

(2) Visitation rights granted under this section may be granted only upon a finding by the court, after a hearing, that the visitation would be in the best interest of the child.

(3) This section does not apply if the child has been adopted by a person other than a stepparent or a grandparent. Visitation rights granted under this section terminate upon the adoption of the child by a person other than a stepparent or a grandparent.

Section 3. Section 40-4-217, MCA, is amended to read:

"40-4-217. Visitation. (1) A parent not granted custody of the child is entitled to reasonable visitation rights unless the court finds, after a hearing, that visitation would endanger seriously the child's physical, mental, moral, or emotional health.

(2) In a proceeding for dissolution of marriage or legal separation, the court may, upon the petition of a grandparent, grant reasonable visitation rights to the grandparent of the child if the court finds, after a hearing, that the visitation would be in the best interest of the child.

~~(2)~~(3) The court may modify an order granting or denying visitation rights whenever modification would serve the best interest of the child; but the court shall not

restrict a parent's visitation rights unless it finds that the visitation would endanger seriously the child's physical, mental, moral, or emotional health."

-End-

HOUSE JUDICIARY COMMITTEE

46th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
SB 1	recode bill	1/8		Fri 5th	do pass	1/8
HB 88	provide for grandparent visitation - when in the best interests of child	1/9	Waldron	Monday 15th	do pass-amended	1/15
HB 90	increase fine for an encroachment from $10 to $100 day -	1/9	Yardley	Monday 15th	do pass	1/15
HB 95	remove criminal sanctions when applicant makes false statement on license app.	1/9	Scully	Monday 15th	do pass-amended	1/15
HB 96	prohibit misrepresentation of age in procuring liquor	1/10	K. Robbins	Monday 15th	do pass	1/15
HB 119	a statement of intent must accompany bills enacted by executive branch agency	1/11 1/20	Roth	Tuesday 16th	do pass do pass-amended	1/18 1/22

HOUSE OF REPRESENTATIVES
JUDICIARY COMMITTEE
January 15, 1979

The regular meeting was called to order by Vice-Chairman Teague at 8:00 a.m. in room 436 of the Capitol Building on Monday, January 15. All members were present except Representatives Day, Seifert and Holmes. Mr. Scully would be late because he was carrying a bill in another committee.

HOUSE BILL NO. 88: Representative Waldron, sponsor of the bill stated that this bill was to give rights to grandparents in the event of a divorce or other situation in which they might not have this right. He explained the bill briefly and asked that anyone with questions please ask and he would try to answer them.

There was a question about the word minor, not included on page 2 although it is on page 1. There was also discussion about the meaning of the word minor.

Representatives Scully, Seifert and Day came in.

Representative Lory commented that it seemed redundant to him in that a minor is a child. There was more discussion about this.

With no further discussion and no questions the hearing closed on House Bill No. 88.

HOUSE BILL NO. 90: Representative Yardley, sponsor of the bill said this bill would increase the fine for an encroachment from $10 to $100 per day, and that there would be a penalty for not removing it promptly. The question was raised as to what was meant by encroachment. Representative Yardley said that encroachment normally means when someone puts a lock on a gate and thus keeps other people out, such as during hunting season. This would not apply to private land only public lands.

There was discussion about the $300 fine, and that people seemed willing to pay it.

The question was raised as to why Mr. Yardley introduced this bill and he said it was mainly at the request of sportsman in the Livingston area which is his district.

Representative Day asked that Mr.

Executive session
January 15, 1979

Representative Lory moved "do pass as amended". The motion carried with the vote unanimous.

HOUSE BILL NO. 90: Representative Day moved "do pass". There was discussion about the five ways to get a road; petition, use, affadavit, certificate of survey, and plat. Then followed discussion whether encroachment was a usurpation of authority.

The motion "do pass" carried with Representatives Roth, Curtiss, Conroy, and Seifert voting "no".

HOUSE BILL NO. 88: Larry Weinberg explained about the word "minor" as related to child or children. Discussion followed.

There was discussion about amending the title, line 5 amd page 1, line 23, to strike "minor". The motion was made by Representative Lory and the motion carried with the vote unanimous.

Representative Seifert moved "do not pass as amended". Representative Daily moved a substitute motion "do pass as amended". The motion carried with Representatives Conroy, Seifert, Roth and Eudaily voting "no".

HOUSE BILL NO. 96: Representative Keyser moved "do pass", and the motion carried with Representative Uhde voting "no".

HOUSE BILL NO. 95: Representative Scully suggested there should be an amendment on page 2, lines 4 and 5. Representative Day moved to strike "shall" and insert "may". The motion carried with the vote unanimous.

Representative Eudaily moved to amend page 1, line 12, by striking "all beverages and on line 15 by striking "code" and inserting "chapter". The motion carried.

Representative Roth moved to amend the title, line 6, following: "MCA" to make the section applicable to all licenses under the liquor code;" and on line 6, following: "to remove" insert "language relating to". On line 8, following: "applicant", insert "and to provide for denial or revocation of licenses whenever false statements are made in license applications". The motion carried with the

FORTY-SIXTH LEGISLATIVE SESSION

COMMITTEE ON JUDICIARY - SENATE

	HOUSE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
1.	HB-6	1/15/79	1/18/79	1/18/79					1/18/79	
2.	HB-7	1/18/79	1/27/79	1/30/79					1/29/79	
3	HB-32	2/7/79	3/2/79	3/6/79					3/3/79	
4.	HB-41	1/18/79	1/18/79	1/18/79					1/18/79	
5.	HB-69	1/19/79		Transferred 1/18/79						
6.	HB-75	1/18/79	1/26/79	1/30/79					1/29/79	
7.	HB-83	1/26/79	1/26/79	1/26/79				1/26/79		
8	HB-95	1/26/79	1/26/79	1/26/79				1/26/79		
9.	HB-96	1/26/79	1/25/79	1/26/79					1/26/79	
10.	HB-133	1/23/79	2/28/79	2/28/79				2/28/79		
11.	HB-136	1/24/79	1/31/79	3/1/79						3/1/79
12	HB-156	3/3/79	3/13/79	Tabled 3/13/79						
13.	HB-163	2/3/79	2/28/79	2/28/79					2/28/79	
14.	HB-165	1/23/79	1/29/79	1/29/79				1/29/79		
15.	HB-167	1/23/79	1/29/79	1/29/79					1/29/79	
16.	HB-170	1/23/79	1/31/79	1/31/79				1/31/79		

Use a separate sheet for Senate, House Bills, and Resolutions.

There being no further questions, the hearing on this bill was closed.

CONSIDERATION OF HOUSE BILL 88:

Representative Waldron gave an explanation of this bill which is an act to provide for grandparent visitation rights with grandchildren under certain circumstances. He stated that this would only apply when the visitation rights are in the best interest of the child.

There were no further proponents and no opponents.

Senator Towe questioned if the only time that this would apply would be in a divorce situation and Representative Waldron said that it also includes a death.

Senator Van Valkenburg questioned what other states have this and Representative Waldron said New York does and a few others.

There being no further questions, the hearing on this bill closed.

CONSIDERATION OF SENATE BILL 153:

Senator Story explained this bill which revises and clarifies the laws relating to administrative rulemaking to define "person: to include agencies; to create a revolving fund for paying the expenses of publication of administrative rules of Montana and the register". He offered an amendment to page 4, line 14 and 15 to strike "other than an agency" and on page 18, line 3, following "copy" insert "of a declaratory ruling".

Mr. Leonard Larson, from the Secretary of State's office, stated that his main concern is the revolving fund.

Mr. Bob Pyfer from the Legislative Council said he did not write this bill, but went over the inclusion of agency in the definition of person.

Mr. John Bobinski from the state personnel division stated that he was concerned about the definition of person to include agency.

Mr. Doyle Saxby, from the Department of Institutions, questioned page 3 when an agency action determines a contract and wondered what they meant by contract. He stated that contract use to be nebulous and with all the purchasing they have in their department he felt that the matter needed to be clarified.

There were no further proponents and no opponents.

DISPOSITION OF HOUSE BILL 88:

Senator Brown moved that this bill be concurred in. The motion carried unanimously.

Senator Lensink said that they were going to assign SB 37 and SB 129 to a sub-committee to work out all the problems.

RECONSIDERATION OF HOUSE BILL 75:

Senator Towe moved to reconsider House Bill 75. The motion carried with Senator Anderson voting no.

Senator Van Valkenburg explained that he was concerned about this bill if a teenager should forfeit a bail for DWI and then maybe 10 or 15 years later he should have another offense, this would make a second offense for him. He felt there should be a period of time after which this should not apply. He requested that he take this up with the highway patrol and the county attorneys and they should be able to offer a reasonable period of time. Senator Lensink granted his request.

Senator Lensink reviewed the status of the bills which we have in this committee at this time.

There being no further business, the meeting was adjourned at 11:09 a.m.

Everett R. Lensink

SENATOR EVERETT R. LENSINK, Chairman
Senate Judiciary Committee

STANDING COMMITTEE REPORT

January 26, 19 79

MR. President:

We, your committee on Judiciary

having had under consideration House Bill No. 88

Respectfully report as follows: That House Bill No. 88

BE CONCURRED IN

~~DO PASS~~

Everett R. Lensink Chairman

STATE PUB. CO.
Helena, Mont.

HOUSE BILL NO. 88

INTRODUCED BY WALDRON

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REFERENCE BILL

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-End-